

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN ASSEMBLY JUNE 16, 2010

SENATE BILL

No. 1491

Introduced by Committee on Business, Professions and Economic Development (Senators Negrete McLeod (Chair), Aanestad, Calderon, Correa, Florez, Oropeza, Walters, Wyland, and Yee)

March 11, 2010

An act to amend Sections 5020, 5021, 5024, 5076, 5090, 5109, 5120, 5122, 6750, 6751, 6756, 6758, 6759, 6763, 6799, 7028.6, 7028.7, 7028.9, 7058.5, 7099.2, 7110, 7210.7, 7316, 7317, 7320.1, 7352, 7410, 8740, 8746, 8748, 8805, and 22457 and 8805 of, and to repeal Section 5109.5 of, the Business and Professions Code, to amend Section 11126 of the Government Code, and to amend Sections 7054.6 and 8344 of, and to repeal Section 8340 of, the Health and Safety Code, and to amend Section 7106 of the Public Contract Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy. Existing law authorizes the board to appoint an administrative committee to provide advice and assistance relative to investigations of licensee misconduct. Existing law also authorizes the board to create and appoint other advisory committees consisting of public accountants or certified public accountants who need not be members of the board for the purpose of making recommendations to the board.

This bill would designate the administrative committee as the enforcement advisory committee. The bill would require these other advisory committees to consist solely of board members or to consist of board members and other persons who are not board members.

(2) Existing law provides for the licensure and regulation of professional engineers and professional land surveyors by the Board for Professional Engineers and Land Surveyors. Existing law authorizes the board to make arrangements with a public or private organization to conduct licensure examinations and to authorize the organization to receive examination fees directly from applicants.

This bill would provide that the fee to take an examination administered by a public or private organization may not be greater than actual cost of examination development and administration.

Existing law authorizes an applicant for certification as an engineer-in-training to sit for the first division of the licensing examination after he or she completes 3 or more years of college or university education in board-approved engineering curriculum or 3 or more years of board-approved experience.

This bill would allow an applicant for certification as an engineer-in-training to sit for the first division of the examination upon completion of 3 years of engineering experience, postsecondary engineering education, or a combination of education and experience. The bill would make other conforming changes.

(3) Existing law provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law, based upon complaint or otherwise, authorizes the Registrar of Contractors to issue citations for violations of the licensure requirement within 4 years after the act or omission that is the basis for the citation.

This bill would require a citation to be issued within 4 years after the act or omission that is the basis for the citation or within 18 months after filing the complaint with the registrar, whichever is later.

Existing law prohibits a contractor from engaging in asbestos-related work, as specified, without passing an asbestos certification examination. Existing law requires the board to develop, and deliver to all applicants with the request for bond and fee, a booklet relating to the handling and disposal of asbestos, that includes an open book examination concerning asbestos-related work. Existing law requires all applicants for an initial contractor's license and specified applicants filing a delinquent renewal application to complete and sign the open book examination and to submit it to the board with the required renewal or bond and fee.

This bill would instead require the board to make that booklet available to all applicants, either on the board's Internet Web site or upon request in hard copy. The bill would require only applicants for initial licensure to complete the examination and to submit it to the board, as specified.

Under existing law, a willful or deliberate disregard by a licensed contractor of various state building, labor, and safety laws constitutes a cause for disciplinary action.

This bill would specify that a willful or deliberate disregard of the Subletting and Subcontracting Fair Practices Act also constitutes a cause for disciplinary action.

(4) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind that, among others things, licenses and regulates schools and instructors for the training of guide dogs for the blind and the instruction of blind persons in the use of guide dogs.

Under existing law, the board may authorize board-licensed schools or instructors employed by those schools to provide home training, as specified, in the use of guide dogs. Existing law requires schools desiring to provide home training to apply to the board and provide the board with specified information for conducting that home training subject to board approval. Existing law requires these schools to annually provide the board specified information about those persons receiving home training. Existing law also requires, except in cases of undue hardship, the guide dog user to complete a formal in-residence training program from a licensed or recognized school as a condition of receiving home training.

This bill would eliminate that approval process and other requirements, including the formal in-residence training program for guide dog users, and would instead authorize schools and instructors licensed by the board to provide home training in the use of guide dogs. The bill would also require instructors to file annual reports with the board regarding persons receiving home training.

(5) Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology.

Under existing law, nail care is a specialty branch within the practice of cosmetology and is the practice of, among other things, cutting, trimming, manicuring nails or massaging, cleansing, or beautifying the hands or feet of any person. Existing law permits metal instruments to

be used for the cutting, trimming, manicuring, or pedicuring of nails or cuticles.

This bill would specify that nail care is also the practice of pedicuring nails or massaging, cleansing, or beautifying from the elbow to the fingertips or the knees to the toes of any person. The bill would also permit metal instruments to be used for the smoothing and massaging of the hands and feet.

Existing law makes it unlawful for any person to engage in barbering or cosmetology for compensation or to operate an establishment where barbering or cosmetology is practiced without a license and specifies that a violation of this requirement is a misdemeanor.

This bill would instead provide that a violation of that requirement is subject to an administrative fine and may be subject to a misdemeanor.

Existing law requires barbering and cosmetology establishments to provide specified handwashing facilities, including running water, soap, and approved sanitary towels.

This bill would instead require these establishments to provide running water, soap, and towels or air hand dryers.

Existing law authorizes the board to issue a notice of violation or a citation with an administrative fine to persons violating the act. Existing law authorizes these persons to appeal the citation and requires them or their appointed representative to appear in person before the disciplinary review committee.

This bill would eliminate that appearance requirement and instead authorize these persons or their appointed representative to appear in person before the disciplinary review committee.

(6) Existing law, the Cemetery Act, establishes the Cemetery and Funeral Bureau within the Department of Consumer Affairs and sets forth its powers and duties, including, but not limited to, the registering and regulating of cremated remains disposers.

Existing law authorizes cremated remains to be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains, or kept in a church or religious shrine if certain requirements are met, if the removal is under the authority of a permit for disposition of human remains. Under existing law, these disposition permits are required to include a description of the final place of disposition sufficient to identify the place and are issued by the local registrar. Existing law requires a crematory to maintain a specified identification system and requires that after cremation an

identifying disk, tab, or other permanent label be placed within the urn or cremated remains container before the cremated remains are released from the crematory.

This bill would authorize cremated remains to be kept in or on the real property owned or occupied by ~~specified persons~~ *any person*, with the permission of the person with the right to control disposition of remains. The bill would also authorize a specified amount of cremated remains to be placed in a keepsake urn, *as defined*, and kept as authorized by the person or persons with the right to control disposition, provided that a disposition permit is issued by the local registrar for each keepsake urn and a specified permit fee is paid, and would exempt remains in the keepsake urn from ~~those specified~~ identification system requirements. For all other urns, the bill would require the identifying disk, tab, or other permanent label to contain, among other things, the license number of the crematory. By establishing new duties on the local registrar, the bill would impose a state-mandated local program.

Existing law prohibits a crematory from conducting any business unless there is in the same fireproof building or structure or in a separate fireproof building within the same cemetery a specified columbarium, burial park, or mausoleum.

This bill would delete that prohibition.

~~(7) Existing law provides for regulation of professional photocopiers, including a requirement for issuance of an identification card by the county clerk.~~

~~This bill would require the identification card for an employee of a professional photocopier or partnership or corporation to contain a photograph of the employee. By imposing additional duties on county clerks, the bill would impose a state-mandated local program.~~

~~(8) Existing law requires a person bidding on a public works contract of a public entity to execute and submit an affidavit of noncollusion with the bid.~~

~~This bill would revise the affidavit and require it to be executed under penalty of perjury, thereby imposing a state-mandated local program by expanding the definition of a crime.~~

~~(9)~~

~~(7) The bill would delete various obsolete provisions and make other clarifying and conforming changes.~~

~~(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5020 of the Business and Professions
2 Code is amended to read:

3 5020. The board may, for the purpose of obtaining technical
4 expertise, appoint an enforcement advisory committee of not more
5 than 13 licensees to provide advice and assistance related to the
6 functions specified in Section 5103. The committee shall act only
7 in an advisory capacity, shall have no authority to initiate any
8 disciplinary action against a licensee, and shall only be authorized
9 to report its findings from any investigation or hearing conducted
10 pursuant to this section to the board, or upon direction of the board,
11 to the executive officer.

12 SEC. 2. Section 5021 of the Business and Professions Code is
13 amended to read:

14 5021. The members of the enforcement advisory and
15 qualifications committees shall hold office for two years.

16 SEC. 3. Section 5024 of the Business and Professions Code is
17 amended to read:

18 5024. The board may create and appoint advisory committees,
19 consisting solely of board members or consisting of board members
20 and other persons who are not board members, for the purpose of
21 making recommendations on matters as may be specified by the
22 board.

1 SEC. 4. Section 5076 of the Business and Professions Code is
2 amended to read:

3 5076. (a) In order to renew its registration, a firm, as defined
4 in Section 5035.1, shall have a peer review report of its accounting
5 and auditing practice accepted by a board-recognized peer review
6 program no less frequently than every three years.

7 (b) For purposes of this article, the following definitions apply:

8 (1) "Peer review" means a study, appraisal, or review conducted
9 in accordance with professional standards of the professional work
10 of a firm, and may include an evaluation of other factors in
11 accordance with the requirements specified by the board in
12 regulations. The peer review report shall be issued by an individual
13 who has a valid and current license, certificate, or permit to practice
14 public accountancy from this state or another state and is
15 unaffiliated with the firm being reviewed.

16 (2) "Accounting and auditing practice" includes any services
17 that are performed using professional standards defined by the
18 board in regulations.

19 (c) The board shall adopt regulations as necessary to implement,
20 interpret, and make specific the peer review requirements in this
21 section, including, but not limited to, regulations specifying the
22 requirements for board recognition of a peer review program,
23 standards for administering a peer review, extensions of time for
24 fulfilling the peer review requirement, exclusions from the peer
25 review program, and document submission.

26 (d) The board shall adopt emergency regulations in accordance
27 with the Administrative Procedure Act (Chapter 3.5 (commencing
28 with Section 11340) of Part 1 of Division 3 of Title 2 of the
29 Government Code) to establish policies, guidelines, and procedures
30 as outlined in subdivision (c). The adoption of the regulations shall
31 be considered by the Office of Administrative Law to be necessary
32 for the immediate preservation of the public peace, health and
33 safety, or general welfare. The emergency regulations shall be
34 submitted to the Office of Administrative Law for filing with the
35 Secretary of State and publication in the California Code of
36 Regulations, and shall be replaced in accordance with the
37 Administrative Procedure Act.

38 (e) Nothing in this section shall prohibit the board from initiating
39 an investigation and imposing discipline against a firm or licensee,
40 either as the result of a complaint that alleges violations of statutes,

1 rules, or regulations, or from information contained in a peer review
2 report received by the board.

3 (f) A firm issued a substandard peer review report, as defined
4 by the board in regulation, shall submit a copy of that report to the
5 board. The board shall establish in regulation the time period that
6 a firm must submit the report to the board. This period shall not
7 exceed 60 days from the time the report is accepted by a
8 board-recognized peer review program provider to the date the
9 report is submitted to the board.

10 (g) (1) A board-recognized peer review program provider shall
11 file a copy with the board of all substandard peer review reports
12 issued to California-licensed firms. The board shall establish in
13 regulation the time period that a board-recognized peer review
14 program provider shall file the report with the board. This period
15 shall not exceed 60 days from the time the report is accepted by a
16 board-recognized peer review program provider to the date the
17 report is filed with the board. These reports may be filed with the
18 board electronically.

19 (2) Nothing in this subdivision shall require a board-recognized
20 peer review program provider, when administering peer reviews
21 in another state, to violate the laws of that state.

22 (h) The board shall, by January 1, 2010, define a substandard
23 peer review report in regulation.

24 (i) Any requirements imposed by a board-recognized peer review
25 program on a firm in conjunction with the completion of a peer
26 review shall be separate from, and in addition to, any action by
27 the board pursuant to this section.

28 (j) Any report of a substandard peer review submitted to the
29 board in conjunction with this section shall be collected for
30 investigatory purposes.

31 (k) Nothing in this section affects the discovery or admissibility
32 of evidence in a civil or criminal action.

33 (l) Nothing in this section requires any firm to become a member
34 of any professional organization.

35 (m) A peer reviewer shall not disclose information concerning
36 licensees or their clients obtained during a peer review, unless
37 specifically authorized pursuant to this section, Section 5076.1, or
38 regulations prescribed by the board.

1 (n) By January 1, 2013, the board shall provide the Legislature
2 and Governor with a report regarding the peer review requirements
3 of this section that includes, without limitation:

4 (1) The extent to which mandatory peer review of small firms
5 or sole practitioners that prepare nondisclosure compiled financial
6 statements on an other comprehensive basis of accounting enhances
7 consumer protection.

8 (2) The impact of peer review required by this section on small
9 firms and sole practitioners that prepare nondisclosure compiled
10 financial statements on an other comprehensive basis of accounting.

11 (3) The impact of peer review required by this section on small
12 businesses, nonprofit corporations, and other entities that utilize
13 small firms or sole practitioners for the purposes of nondisclosure
14 compiled financial statements prepared on an other comprehensive
15 basis of accounting.

16 (o) This section shall remain in effect only until January 1, 2014,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before January 1, 2014, deletes or extends that date.

19 SEC. 5. Section 5090 of the Business and Professions Code is
20 amended to read:

21 5090. An applicant for the certified public accountant license
22 shall comply with the education, examination, and experience
23 requirements in either Section 5092 or 5093.

24 SEC. 6. Section 5109 of the Business and Professions Code is
25 amended to read:

26 5109. The expiration, cancellation, forfeiture, or suspension
27 of a license, practice privilege, or other authority to practice public
28 accountancy by operation of law or by order or decision of the
29 board or a court of law, or the voluntary surrender of a license by
30 a licensee shall not deprive the board of jurisdiction to commence
31 or proceed with any investigation of or action or disciplinary
32 proceeding against the licensee, or to render a decision suspending
33 or revoking the license.

34 SEC. 7. Section 5109.5 of the Business and Professions Code
35 is repealed.

36 SEC. 8. Section 5120 of the Business and Professions Code is
37 amended to read:

38 5120. Any person who violates Article 3 (commencing with
39 Section 5050) is guilty of a misdemeanor, punishable by

1 imprisonment for not more than six months, or by a fine of not
2 more than one thousand dollars (\$1,000), or both.

3 Whenever the board has reason to believe that any person is
4 liable to punishment under this article, the board or with its
5 approval the enforcement advisory committee, may certify the
6 facts to the appropriate enforcement officer of the city or county
7 where the alleged violation had taken place and the officer may
8 cause appropriate proceedings to be brought.

9 SEC. 9. Section 5122 of the Business and Professions Code is
10 amended to read:

11 5122. Whenever in the judgment of the board, or with its
12 approval the enforcement advisory committee, any person has
13 engaged, or is about to engage, in any acts or practices that
14 constitute, or will constitute, an offense against this chapter, the
15 board may make application to the appropriate court for an order
16 enjoining the acts or practices, and upon showing by the board
17 that the person has engaged, or is about to engage, in any such acts
18 or practices, an injunction, restraining order, or other order that
19 may be appropriate shall be granted by the court.

20 SEC. 10. Section 6750 of the Business and Professions Code
21 is amended to read:

22 6750. (a) An application for licensure as a professional
23 engineer or certification as an engineer-in-training shall be made
24 to the board on the prescribed form, with all statements made
25 therein under oath, and shall be accompanied by the fee prescribed
26 by this chapter. An application for licensure as a professional
27 engineer shall specify, additionally, the branch of engineering in
28 which the applicant desires licensure.

29 (b) The board may authorize an organization specified by the
30 board pursuant to Section 6754 to receive directly from applicants
31 payment of the examination fees charged by that organization as
32 payment for examination materials and services.

33 SEC. 11. Section 6751 of the Business and Professions Code
34 is amended to read:

35 6751. (a) The applicant for certification as an
36 engineer-in-training shall comply with all of the following:

37 (1) Not have committed acts or crimes constituting grounds for
38 denial of registration under Section 480.

39 (2) Successfully pass the first division of the examination. The
40 applicant shall be eligible to sit for the first division of the

1 examination after satisfactory completion of three years or more
2 of postsecondary engineering education, three years or more of
3 engineering experience, or a combination of postsecondary
4 education and experience in engineering totaling three years.

5 The board need not verify the applicant's eligibility other than
6 to require the applicant to sign a statement of eligibility on the
7 application form.

8 (b) The applicant for registration as a professional engineer shall
9 comply with all of the following:

10 (1) Not have committed acts or crimes constituting grounds for
11 denial of registration under Section 480.

12 (2) Furnish evidence of six years or more of qualifying
13 experience in engineering work satisfactory to the board evidencing
14 that the applicant is competent to practice the character of
15 engineering in the branch for which he or she is applying for
16 registration, and successfully pass the second division of the
17 examination.

18 (3) The applicant for the second division of the examination
19 shall successfully pass the first division examination or shall be
20 exempt therefrom.

21 SEC. 12. Section 6756 of the Business and Professions Code
22 is amended to read:

23 6756. (a) An applicant for certification as an
24 engineer-in-training shall, upon making a passing grade in that
25 division of the examination prescribed in Section 6755, relating
26 to fundamental engineering subjects, be issued a certificate as an
27 engineer-in-training. A renewal or other fee, other than the
28 application and examination fees, may not be charged for this
29 certification. The certificate shall become invalid when the holder
30 has qualified as a professional engineer as provided in Section
31 6762.

32 (b) An engineer-in-training certificate does not authorize the
33 holder thereof to practice or offer to practice civil, electrical, or
34 mechanical engineering work, in his or her own right, or to use
35 the titles specified in Sections 6732, 6736, and 6736.1.

36 (c) It is unlawful for anyone other than the holder of a valid
37 engineer-in-training certificate issued under this chapter to use the
38 title of "engineer-in-training" or any abbreviation of that title.

39 SEC. 13. Section 6758 of the Business and Professions Code
40 is amended to read:

1 6758. An applicant failing in an examination may be examined
2 again upon filing a new application and the payment of the fee
3 fixed by this chapter.

4 SEC. 14. Section 6759 of the Business and Professions Code
5 is amended to read:

6 6759. The board, upon application therefor, on its prescribed
7 form, and the payment of the fee fixed by this chapter, may issue
8 a certificate of registration as a professional engineer, without
9 written examination, to any person holding a certificate of
10 registration issued to him or her by any state or country when the
11 applicant's qualifications meet the requirements of this chapter
12 and rules established by the board. The board shall not require a
13 comity applicant to meet any requirement not required of California
14 applicants. For purposes of this section, equivalent second division
15 examinations shall be eight-hour written examinations prepared
16 by or administered by a state or territory either by single or
17 combined branch at the level generally administered by the board
18 to persons who passed or were exempted from the first division
19 examination. Applicants who have passed an equivalent second
20 division combined branch or a single branch examination in a
21 branch not recognized for registration in California shall be
22 registered in the branch in which their experience and education
23 indicate the closest relationship.

24 SEC. 15. Section 6763 of the Business and Professions Code
25 is amended to read:

26 6763. Application for authority to use the title "structural
27 engineer," "soil engineer," "soils engineer," or "geotechnical
28 engineer" shall be made to the board on forms prescribed by it and
29 shall be accompanied by the fee fixed by this chapter.

30 An applicant for authority to use the title "structural engineer,"
31 "soil engineer," "soils engineer," or "geotechnical engineer" who
32 has passed the examination prescribed by the board, or an applicant
33 for authority to use the title "soil engineer," "soils engineer," or
34 "geotechnical engineer" whose application is submitted prior to
35 July 1, 1986, and who has otherwise demonstrated that he or she
36 is qualified, shall have a certificate of authority issued to him or
37 her.

38 For purposes of this chapter, an authority to use the title
39 "structural engineer," "soil engineer," "soils engineer," or
40 "geotechnical engineer" is an identification of competence and

1 specialization in a subspecialty of civil engineering and necessitates
2 education or experience in addition to that required for registration
3 as a civil engineer.

4 SEC. 16. Section 6799 of the Business and Professions Code
5 is amended to read:

6 6799. The amount of the fees prescribed by this chapter shall
7 be fixed by the board in accordance with the following schedule:

8 (a) The fee for filing each application for licensure as a
9 professional engineer and each application for authority level
10 designation at not more than four hundred dollars (\$400) and for
11 each application for certification as an engineer-in-training at not
12 more than one hundred dollars (\$100).

13 (b) The fee to take an examination administered by a public or
14 private organization pursuant to Section 6754 shall be no greater
15 than the actual cost of the development and administration of the
16 examination and may be paid directly to the organization by the
17 applicant.

18 (c) The temporary authorization fee for a professional engineer
19 at not more than 25 percent of the application fee in effect on the
20 date of application.

21 (d) The renewal fee for each branch of professional engineering
22 in which licensure is held, and the renewal fee for each authority
23 level designation held, at no more than the professional engineer
24 application fee currently in effect.

25 (e) The fee for a retired license at not more than 50 percent of
26 the professional engineer application fee in effect on the date of
27 application.

28 (f) The delinquency fee at not more than 50 percent of the
29 renewal fee in effect on the date of reinstatement.

30 (g) The board shall establish by regulation an appeal fee for
31 examination. The regulation shall include provisions for an
32 applicant to be reimbursed the appeal fee if the appeal results in
33 passage of examination. The fee charged shall be no more than
34 the costs incurred by the board.

35 (h) All other document fees are to be set by the board by rule.

36 Applicants wishing to be examined in more than one branch of
37 engineering shall be required to pay the additional fee for each
38 examination after the first.

39 SEC. 17. Section 7028.6 of the Business and Professions Code
40 is amended to read:

1 7028.6. The Registrar of Contractors is hereby empowered to
2 issue citations containing orders of abatement and civil penalties
3 against persons acting in the capacity of or engaging in the business
4 of a contractor within this state without having a license in good
5 standing to so act or engage.

6 SEC. 18. Section 7028.7 of the Business and Professions Code
7 is amended to read:

8 7028.7. (a) If upon inspection or investigation, either upon
9 complaint or otherwise, the registrar has probable cause to believe
10 that a person is acting in the capacity of or engaging in the business
11 of a contractor or salesperson within this state without having a
12 license or registration in good standing to so act or engage, and
13 the person is not otherwise exempted from this chapter, the registrar
14 shall issue a citation to that person.

15 (b) Within 72 hours of receiving notice that a public entity is
16 intending to award, or has awarded, a contract to an unlicensed
17 contractor, the registrar shall give written notice to the public entity
18 that a citation may be issued if a contract is awarded to an
19 unlicensed contractor. If after receiving the written notice from
20 the registrar that the public entity has awarded or awards the
21 contract to an unlicensed contractor, the registrar may issue a
22 citation to the responsible officer or employee of the public entity
23 as specified in Section 7028.15.

24 (c) Each citation shall be in writing and shall describe with
25 particularity the basis of the citation. Notwithstanding Sections
26 125.9 and 148, each citation shall contain an order of abatement
27 and an assessment of a civil penalty in an amount not less than
28 two hundred dollars (\$200) nor more than fifteen thousand dollars
29 (\$15,000).

30 (d) With the approval of the Contractors' State License Board,
31 the registrar shall prescribe procedures for the issuance of a citation
32 under this section. The board shall adopt regulations covering the
33 assessment of a civil penalty that shall give due consideration to
34 the gravity of the violation, and any history of previous violations.

35 (e) The sanctions authorized under this section shall be separate
36 from, and in addition to, all other remedies either civil or criminal.

37 SEC. 19. Section 7028.9 of the Business and Professions Code
38 is amended to read:

39 7028.9. A citation under Section 7028.7 shall be issued by the
40 registrar within four years after the act or omission that is the basis

1 for the citation or within 18 months after the date of the filing of
2 the complaint with the registrar, whichever is later.

3 SEC. 20. Section 7058.5 of the Business and Professions Code
4 is amended to read:

5 7058.5. (a) No contractor shall engage in asbestos-related
6 work, as defined in Section 6501.8 of the Labor Code, that involves
7 100 square feet or more of surface area of asbestos containing
8 materials, unless the qualifier for the license passes an asbestos
9 certification examination. Additional updated asbestos certification
10 examinations may be required based on new health and safety
11 information. The decision on whether to require an updated
12 certification examination shall be made by the ~~Contractors~~²
13 *Contractors* State License Board, in consultation with the Division
14 of Occupational Safety and Health in the Department of Industrial
15 Relations and the Division of Environmental and Occupational
16 Disease Control in the State Department of Public Health.

17 No asbestos certification examination shall be required for
18 contractors involved with the installation, maintenance, and repair
19 of asbestos cement pipe or sheets, vinyl asbestos floor materials,
20 or asbestos bituminous or resinous materials.

21 “Asbestos,” as used in this section, has the same meaning as
22 defined in Section 6501.7 of the Labor Code.

23 (b) The ~~Contractors~~² *Contractors* State License Board shall
24 make available to all applicants, either on the board’s Internet Web
25 site or, if requested, in hard copy, a booklet containing information
26 relative to handling and disposal of asbestos, together with an open
27 book examination concerning asbestos-related work. All applicants
28 for an initial ~~contractor’s~~ *contractor* license shall complete the
29 open book examination and, prior to the issuance of a contractor’s
30 license, submit it to the board electronically or by mail if the
31 applicant elects to use the hard-copy format.

32 SEC. 21. Section 7099.2 of the Business and Professions Code
33 is amended to read:

34 7099.2. (a) The board shall promulgate regulations covering
35 the assessment of civil penalties under this article that give due
36 consideration to the appropriateness of the penalty with respect to
37 the following factors:

38 (1) The gravity of the violation.

39 (2) The good faith of the licensee or applicant for licensure
40 being charged.

1 (3) The history of previous violations.

2 (b) Except as otherwise provided by this chapter, no civil penalty
3 shall be assessed in an amount greater than five thousand dollars
4 (\$5,000). Notwithstanding Section 125.9, a civil penalty not to
5 exceed fifteen thousand dollars (\$15,000) may be assessed for a
6 violation of Section 7114 or 7118.

7 SEC. 22. Section 7110 of the Business and Professions Code
8 is amended to read:

9 7110. Willful or deliberate disregard and violation of the
10 building laws of the state, or of any political subdivision thereof,
11 or of Section 8550 or 8556 of this code, or of Sections 1689.5 to
12 1689.15, inclusive, of the Civil Code, or of the safety laws or labor
13 laws or compensation insurance laws or Unemployment Insurance
14 Code of the state, or of the Subletting and Subcontracting Fair
15 Practices Act (Chapter 4 (commencing with Section 4100) of Part
16 1 of Division 2 of the Public Contract Code), or violation by any
17 licensee of any provision of the Health and Safety Code or Water
18 Code, relating to the digging, boring, or drilling of water wells, or
19 Article 2 (commencing with Section 4216) of Chapter 3.1 of
20 Division 5 of Title 1 of the Government Code, constitutes a cause
21 for disciplinary action.

22 SEC. 23. Section 7210.7 of the Business and Professions Code
23 is amended to read:

24 7210.7. Schools and instructors licensed by the board may
25 provide home training in the use of guide dogs.

26 Schools and instructors providing home training in the use of
27 guide dogs shall, annually, provide the board with the names and
28 addresses of those persons who are receiving home training and
29 shall include those persons who have received home training from
30 the school or instructor subsequent to the last report filed with the
31 board.

32 SEC. 24. Section 7316 of the Business and Professions Code
33 is amended to read:

34 7316. (a) The practice of barbering is all or any combination
35 of the following practices:

36 (1) Shaving or trimming the beard or cutting the hair.

37 (2) Giving facial and scalp massages or treatments with oils,
38 creams, lotions, or other preparations either by hand or mechanical
39 appliances.

1 (3) Singeing, shampooing, arranging, dressing, curling, waving,
2 chemical waving, hair relaxing, or dyeing the hair or applying hair
3 tonics.

4 (4) Applying cosmetic preparations, antiseptics, powders, oils,
5 clays, or lotions to scalp, face, or neck.

6 (5) Hairstyling of all textures of hair by standard methods that
7 are current at the time of the hairstyling.

8 (b) The practice of cosmetology is all or any combination of
9 the following practices:

10 (1) Arranging, dressing, curling, waving, machineless permanent
11 waving, permanent waving, cleansing, cutting, shampooing,
12 relaxing, singeing, bleaching, tinting, coloring, straightening,
13 dyeing, applying hair tonics to, beautifying, or otherwise treating
14 by any means, the hair of any person.

15 (2) Massaging, cleaning, or stimulating the scalp, face, neck,
16 arms, or upper part of the human body, by means of the hands,
17 devices, apparatus or appliances, with or without the use of
18 cosmetic preparations, antiseptics, tonics, lotions, or creams.

19 (3) Beautifying the face, neck, arms, or upper part of the human
20 body, by use of cosmetic preparations, antiseptics, tonics, lotions,
21 or creams.

22 (4) Removing superfluous hair from the body of any person by
23 the use of depilatories or by the use of tweezers, chemicals, or
24 preparations or by the use of devices or appliances of any kind or
25 description, except by the use of light waves, commonly known
26 as rays.

27 (5) Cutting, trimming, polishing, tinting, coloring, cleansing,
28 or manicuring the nails of any person.

29 (6) Massaging, cleansing, treating, or beautifying the hands or
30 feet of any person.

31 (c) Within the practice of cosmetology there exist the specialty
32 branches of skin care and nail care.

33 (1) Skin care is any one or more of the following practices:

34 (A) Giving facials, applying makeup, giving skin care, removing
35 superfluous hair from the body of any person by the use of
36 depilatories, tweezers or waxing, or applying eyelashes to any
37 person.

38 (B) Beautifying the face, neck, arms, or upper part of the human
39 body, by use of cosmetic preparations, antiseptics, tonics, lotions,
40 or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

“Electrolysis” as used in this chapter includes electrolysis or thermolysis.

SEC. 25. Section 7317 of the Business and Professions Code is amended to read:

7317. Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other

1 than one licensed by the board, or conduct or operate an
2 establishment, or any other place of business in which barbering,
3 cosmetology, or electrolysis is practiced unless licensed under this
4 chapter. Persons licensed under this chapter shall limit their practice
5 and services rendered to the public to only those areas for which
6 they are licensed. Any violation of this section is subject to an
7 administrative fine and may be subject to a misdemeanor.

8 SEC. 26. Section 7320.1 of the Business and Professions Code
9 is amended to read:

10 7320.1. When providing a manicure or pedicure, no metal
11 instruments shall be used except those metal instruments necessary
12 for the cutting, trimming, manicuring, or pedicuring of nails or
13 cuticles or for the smoothing and massaging of the hands and feet.

14 SEC. 27. Section 7352 of the Business and Professions Code
15 is amended to read:

16 7352. Every establishment shall provide adequate and
17 convenient handwashing facilities, including running water, soap,
18 and towels or air hand dryers.

19 SEC. 28. Section 7410 of the Business and Professions Code
20 is amended to read:

21 7410. Persons to whom a notice of violation or a citation is
22 issued and an administrative fine assessed may appeal the citation
23 to a disciplinary review committee established by the board. All
24 appeals shall be submitted in writing to the program within 30
25 days of the date the citation was issued. Appeals of citations that
26 are not submitted in a timely manner shall be rejected.

27 After a timely appeal has been filed with the program, the
28 administrative fine, if any, shall be stayed until the appeal has been
29 adjudicated.

30 Persons appealing a citation, or their appointed representatives,
31 may appear in person before the disciplinary review committee.
32 The appellant may present written or oral evidence relating to the
33 facts and circumstances relating to the citation that was issued.
34 Following an appeal to a disciplinary review committee, the
35 disciplinary review committee shall issue a decision, based on
36 findings of fact, which may affirm, reduce, dismiss, or alter any
37 charges filed in the citation. In no event shall the administrative
38 fine be increased. The appellant shall be provided with a written
39 copy of the disciplinary review committee's decision relating to
40 the appeal.

1 SEC. 29. Section 8740 of the Business and Professions Code
2 is amended to read:

3 8740. (a) An application for each division of the examination
4 for a license as a land surveyor shall be made to the board on the
5 form prescribed by it, with all statements therein made under oath,
6 and shall be accompanied by the fee fixed by this chapter.

7 (b) The board may authorize an organization specified by the
8 board pursuant to Section 8745 to receive directly from applicants
9 payment of the examination fees charged by that organization as
10 payment for examination materials and services.

11 SEC. 30. Section 8746 of the Business and Professions Code
12 is amended to read:

13 8746. An applicant failing an examination may be examined
14 again upon filing a new application and the payment of the fee
15 fixed by the board.

16 SEC. 31. Section 8748 of the Business and Professions Code
17 is amended to read:

18 8748. The board, upon application therefor, and the payment
19 of the fee fixed by this chapter, may issue a land surveyor's license,
20 without written examination, to any person who holds a valid land
21 surveyor's license issued to him or her by any state or country
22 when the applicant's qualifications meet the requirements of this
23 chapter and rules established by the board.

24 SEC. 32. Section 8805 of the Business and Professions Code
25 is amended to read:

26 8805. The amount of the fees prescribed by this chapter shall
27 be fixed by the board in accordance with the following schedule:

28 (a) The fee for filing each application for licensure as a land
29 surveyor at not more than four hundred dollars (\$400) and for each
30 application for certification as a land surveyor-in-training (LSIT)
31 at not more than one hundred dollars (\$100).

32 (b) The fees to take an examination administered by a public
33 or private organization pursuant to Section 8754 shall be no greater
34 than the actual cost of the development and administration of the
35 examination and may be paid directly to the organization by the
36 applicant.

37 (c) The renewal fee for a land surveyor at not more than the
38 application fee.

1 (d) The fee for a retired license at not more than 50 percent of
2 the professional land surveyor application fee in effect on the date
3 of application.

4 (e) The delinquency fee at not more than 50 percent of the
5 renewal fee in effect on the date of reinstatement.

6 (f) The board shall establish by regulation an appeal fee for
7 examination. The regulation shall include provisions for an
8 applicant to be reimbursed the appeal fee if the appeal results in
9 passage of examination. The fee shall be no more than the costs
10 incurred by the board.

11 (g) All other document fees are to be set by the board by rule.

12 ~~SEC. 33. Section 22457 of the Business and Professions Code~~
13 ~~is amended to read:~~

14 ~~22457. (a) The county clerk shall maintain a register of~~
15 ~~professional photocopiers, assign a number to each professional~~
16 ~~photocopier, and issue an identification card to each one.~~
17 ~~Additional cards for employees of professional photocopiers shall~~
18 ~~be issued upon the payment of ten dollars (\$10) for each card.~~
19 ~~Upon renewal of registration, the same number shall be assigned,~~
20 ~~provided there is no lapse in the period of registration.~~

21 ~~(b) The identification card shall be a card not less than 3 ¼~~
22 ~~inches by 2 inches, and shall contain at the top the title,~~
23 ~~“Professional Photocopier” followed by the registrant’s name,~~
24 ~~address, registration number, date of expiration, and county of~~
25 ~~registration. It shall also contain a photograph of the registrant in~~
26 ~~the lower left corner. The identification card for a partnership or~~
27 ~~corporation registration shall be issued in the name of the~~
28 ~~partnership or corporation, and shall not contain a photograph.~~
29 ~~The identification card for an employee of a professional~~
30 ~~photocopier or partnership or corporation shall contain a~~
31 ~~photograph of the employee in the lower left corner.~~

32 ~~(c) The identification card for an employee of a professional~~
33 ~~photocopier or partnership or corporation shall be issued in the~~
34 ~~name of the employee and include “Employee of: [insert name of~~
35 ~~the professional photocopier or partnership or corporation].”~~

36 ~~SEC. 34. Section 11126 of the Government Code is amended~~
37 ~~to read:~~

38 ~~11126. (a) (1) Nothing in this article shall be construed to~~
39 ~~prevent a state body from holding closed sessions during a regular~~
40 ~~or special meeting to consider the appointment, employment,~~

1 evaluation of performance, or dismissal of a public employee or
2 to hear complaints or charges brought against that employee by
3 another person or employee unless the employee requests a public
4 hearing.

5 (2) As a condition to holding a closed session on the complaints
6 or charges to consider disciplinary action or to consider dismissal,
7 the employee shall be given written notice of his or her right to
8 have a public hearing, rather than a closed session, and that notice
9 shall be delivered to the employee personally or by mail at least
10 24 hours before the time for holding a regular or special meeting.
11 If notice is not given, any disciplinary or other action taken against
12 any employee at the closed session shall be null and void.

13 (3) The state body also may exclude from any public or closed
14 session, during the examination of a witness, any or all other
15 witnesses in the matter being investigated by the state body.

16 (4) Following the public hearing or closed session, the body
17 may deliberate on the decision to be reached in a closed session.

18 (b) For the purposes of this section, “employee” does not include
19 any person who is elected to, or appointed to a public office by,
20 any state body. However, officers of the California State University
21 who receive compensation for their services, other than per diem
22 and ordinary and necessary expenses, shall, when engaged in that
23 capacity, be considered employees. Furthermore, for purposes of
24 this section, the term employee includes a person exempt from
25 civil service pursuant to subdivision (c) of Section 4 of Article VII
26 of the California Constitution.

27 (c) Nothing in this article shall be construed to do any of the
28 following:

29 (1) Prevent state bodies that administer the licensing of persons
30 engaging in businesses or professions from holding closed sessions
31 to prepare, approve, grade, or administer examinations.

32 (2) Prevent an advisory body of a state body that administers
33 the licensing of persons engaged in businesses or professions from
34 conducting a closed session to discuss matters that the advisory
35 body has found would constitute an unwarranted invasion of the
36 privacy of an individual licensee or applicant if discussed in an
37 open meeting, provided the advisory body does not include a
38 quorum of the members of the state body it advises. Those matters
39 may include review of an applicant’s qualifications for licensure
40 and an inquiry specifically related to the state body’s enforcement

1 program concerning an individual licensee or applicant where the
2 inquiry occurs prior to the filing of a civil, criminal, or
3 administrative disciplinary action against the licensee or applicant
4 by the state body.

5 (3) Prohibit a state body from holding a closed session to
6 deliberate on a decision to be reached in a proceeding required to
7 be conducted pursuant to Chapter 5 (commencing with Section
8 11500) or similar provisions of law.

9 (4) Grant a right to enter any correctional institution or the
10 grounds of a correctional institution where that right is not
11 otherwise granted by law, nor shall anything in this article be
12 construed to prevent a state body from holding a closed session
13 when considering and acting upon the determination of a term,
14 parole, or release of any individual or other disposition of an
15 individual case, or if public disclosure of the subjects under
16 discussion or consideration is expressly prohibited by statute.

17 (5) Prevent any closed session to consider the conferring of
18 honorary degrees, or gifts, donations, and bequests that the donor
19 or proposed donor has requested in writing to be kept confidential.

20 (6) Prevent the Alcoholic Beverage Control Appeals Board from
21 holding a closed session for the purpose of holding a deliberative
22 conference as provided in Section 11125.

23 (7) (A) Prevent a state body from holding closed sessions with
24 its negotiator prior to the purchase, sale, exchange, or lease of real
25 property by or for the state body to give instructions to its
26 negotiator regarding the price and terms of payment for the
27 purchase, sale, exchange, or lease.

28 (B) However, prior to the closed session, the state body shall
29 hold an open and public session in which it identifies the real
30 property or real properties that the negotiations may concern and
31 the person or persons with whom its negotiator may negotiate.

32 (C) For purposes of this paragraph, the negotiator may be a
33 member of the state body.

34 (D) For purposes of this paragraph, “lease” includes renewal or
35 renegotiation of a lease.

36 (E) Nothing in this paragraph shall preclude a state body from
37 holding a closed session for discussions regarding eminent domain
38 proceedings pursuant to subdivision (c).

39 (8) Prevent the California Postsecondary Education Commission
40 from holding closed sessions to consider matters pertaining to the

~~1 appointment or termination of the Director of the California
2 Postsecondary Education Commission.~~

~~3 (9) Prevent the Council for Private Postsecondary and
4 Vocational Education from holding closed sessions to consider
5 matters pertaining to the appointment or termination of the
6 Executive Director of the Council for Private Postsecondary and
7 Vocational Education.~~

~~8 (10) Prevent the Franchise Tax Board from holding closed
9 sessions for the purpose of discussion of confidential tax returns
10 or information the public disclosure of which is prohibited by law,
11 or from considering matters pertaining to the appointment or
12 removal of the Executive Officer of the Franchise Tax Board.~~

~~13 (11) Require the Franchise Tax Board to notice or disclose any
14 confidential tax information considered in closed sessions, or
15 documents executed in connection therewith, the public disclosure
16 of which is prohibited pursuant to Article 2 (commencing with
17 Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
18 Revenue and Taxation Code.~~

~~19 (12) Prevent the Corrections Standards Authority from holding
20 closed sessions when considering reports of crime conditions under
21 Section 6027 of the Penal Code.~~

~~22 (13) Prevent the State Air Resources Board from holding closed
23 sessions when considering the proprietary specifications and
24 performance data of manufacturers.~~

~~25 (14) Prevent the State Board of Education or the Superintendent
26 of Public Instruction, or any committee advising the board or the
27 Superintendent, from holding closed sessions on those portions of
28 its review of assessment instruments pursuant to Chapter 5
29 (commencing with Section 60600) of, or pursuant to Chapter 9
30 (commencing with Section 60850) of, Part 33 of Division 4 of
31 Title 2 of the Education Code during which actual test content is
32 reviewed and discussed. The purpose of this provision is to
33 maintain the confidentiality of the assessments under review.~~

~~34 (15) Prevent the California Integrated Waste Management Board
35 or its auxiliary committees from holding closed sessions for the
36 purpose of discussing confidential tax returns, discussing trade
37 secrets or confidential or proprietary information in its possession,
38 or discussing other data, the public disclosure of which is
39 prohibited by law.~~

1 ~~(16) Prevent a state body that invests retirement, pension, or~~
2 ~~endowment funds from holding closed sessions when considering~~
3 ~~investment decisions. For purposes of consideration of shareholder~~
4 ~~voting on corporate stocks held by the state body, closed sessions~~
5 ~~for the purposes of voting may be held only with respect to election~~
6 ~~of corporate directors, election of independent auditors, and other~~
7 ~~financial issues that could have a material effect on the net income~~
8 ~~of the corporation. For the purpose of real property investment~~
9 ~~decisions that may be considered in a closed session pursuant to~~
10 ~~this paragraph, a state body shall also be exempt from the~~
11 ~~provisions of paragraph (7) relating to the identification of real~~
12 ~~properties prior to the closed session.~~

13 ~~(17) Prevent a state body, or boards, commissions,~~
14 ~~administrative officers, or other representatives that may properly~~
15 ~~be designated by law or by a state body, from holding closed~~
16 ~~sessions with its representatives in discharging its responsibilities~~
17 ~~under Chapter 10 (commencing with Section 3500), Chapter 10.3~~
18 ~~(commencing with Section 3512), Chapter 10.5 (commencing with~~
19 ~~Section 3525), or Chapter 10.7 (commencing with Section 3540)~~
20 ~~of Division 4 of Title 1 as the sessions relate to salaries, salary~~
21 ~~schedules, or compensation paid in the form of fringe benefits.~~
22 ~~For the purposes enumerated in the preceding sentence, a state~~
23 ~~body may also meet with a state conciliator who has intervened~~
24 ~~in the proceedings.~~

25 ~~(18) (A) Prevent a state body from holding closed sessions to~~
26 ~~consider matters posing a threat or potential threat of criminal or~~
27 ~~terrorist activity against the personnel, property, buildings,~~
28 ~~facilities, or equipment, including electronic data, owned, leased,~~
29 ~~or controlled by the state body, where disclosure of these~~
30 ~~considerations could compromise or impede the safety or security~~
31 ~~of the personnel, property, buildings, facilities, or equipment,~~
32 ~~including electronic data, owned, leased, or controlled by the state~~
33 ~~body.~~

34 ~~(B) Notwithstanding any other provision of law, a state body,~~
35 ~~at any regular or special meeting, may meet in a closed session~~
36 ~~pursuant to subparagraph (A) upon a two-thirds vote of the~~
37 ~~members present at the meeting.~~

38 ~~(C) After meeting in closed session pursuant to subparagraph~~
39 ~~(A), the state body shall reconvene in open session prior to~~
40 ~~adjournment and report that a closed session was held pursuant to~~

1 subparagraph (A), the general nature of the matters considered,
2 and whether any action was taken in closed session.

3 (D) After meeting in closed session pursuant to subparagraph
4 (A), the state body shall submit to the Legislative Analyst written
5 notification stating that it held this closed session, the general
6 reason or reasons for the closed session, the general nature of the
7 matters considered, and whether any action was taken in closed
8 session. The Legislative Analyst shall retain for no less than four
9 years any written notification received from a state body pursuant
10 to this subparagraph.

11 (d) (1) Notwithstanding any other provision of law, any meeting
12 of the Public Utilities Commission at which the rates of entities
13 under the commission's jurisdiction are changed shall be open and
14 public.

15 (2) Nothing in this article shall be construed to prevent the
16 Public Utilities Commission from holding closed sessions to
17 deliberate on the institution of proceedings, or disciplinary actions
18 against any person or entity under the jurisdiction of the
19 commission.

20 (e) (1) Nothing in this article shall be construed to prevent a
21 state body, based on the advice of its legal counsel, from holding
22 a closed session to confer with, or receive advice from, its legal
23 counsel regarding pending litigation when discussion in open
24 session concerning those matters would prejudice the position of
25 the state body in the litigation.

26 (2) For purposes of this article, all expressions of the
27 lawyer-client privilege other than those provided in this subdivision
28 are hereby abrogated. This subdivision is the exclusive expression
29 of the lawyer-client privilege for purposes of conducting closed
30 session meetings pursuant to this article. For purposes of this
31 subdivision, litigation shall be considered pending when any of
32 the following circumstances exist:

33 (A) An adjudicatory proceeding before a court, an administrative
34 body exercising its adjudicatory authority, a hearing officer, or an
35 arbitrator, to which the state body is a party, has been initiated
36 formally.

37 (B) (i) A point has been reached where, in the opinion of the
38 state body on the advice of its legal counsel, based on existing
39 facts and circumstances, there is a significant exposure to litigation
40 against the state body.

1 ~~(ii) Based on existing facts and circumstances, the state body~~
2 ~~is meeting only to decide whether a closed session is authorized~~
3 ~~pursuant to clause (i).~~

4 ~~(C) (i) Based on existing facts and circumstances, the state~~
5 ~~body has decided to initiate or is deciding whether to initiate~~
6 ~~litigation.~~

7 ~~(ii) The legal counsel of the state body shall prepare and submit~~
8 ~~to it a memorandum stating the specific reasons and legal authority~~
9 ~~for the closed session. If the closed session is pursuant to paragraph~~
10 ~~(1), the memorandum shall include the title of the litigation. If the~~
11 ~~closed session is pursuant to subparagraph (A) or (B), the~~
12 ~~memorandum shall include the existing facts and circumstances~~
13 ~~on which it is based. The legal counsel shall submit the~~
14 ~~memorandum to the state body prior to the closed session, if~~
15 ~~feasible, and in any case no later than one week after the closed~~
16 ~~session. The memorandum shall be exempt from disclosure~~
17 ~~pursuant to Section 6254.25.~~

18 ~~(iii) For purposes of this subdivision, "litigation" includes any~~
19 ~~adjudicatory proceeding, including eminent domain, before a court,~~
20 ~~administrative body exercising its adjudicatory authority, hearing~~
21 ~~officer, or arbitrator.~~

22 ~~(iv) Disclosure of a memorandum required under this~~
23 ~~subdivision shall not be deemed as a waiver of the lawyer-client~~
24 ~~privilege, as provided for under Article 3 (commencing with~~
25 ~~Section 950) of Chapter 4 of Division 8 of the Evidence Code.~~

26 ~~(f) In addition to subdivisions (a), (b), and (c), nothing in this~~
27 ~~article shall be construed to do any of the following:~~

28 ~~(1) Prevent a state body operating under a joint powers~~
29 ~~agreement for insurance pooling from holding a closed session to~~
30 ~~discuss a claim for the payment of tort liability or public liability~~
31 ~~losses incurred by the state body or any member agency under the~~
32 ~~joint powers agreement.~~

33 ~~(2) Prevent the examining committee established by the State~~
34 ~~Board of Forestry and Fire Protection, pursuant to Section 763 of~~
35 ~~the Public Resources Code, from conducting a closed session to~~
36 ~~consider disciplinary action against an individual professional~~
37 ~~forester prior to the filing of an accusation against the forester~~
38 ~~pursuant to Section 11503.~~

39 ~~(3) Prevent the enforcement advisory committee established by~~
40 ~~the California Board of Accountancy pursuant to Section 5020 of~~

~~the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.~~

~~(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.~~

~~(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.~~

~~(6) Prevent a state body, as defined in subdivision (e) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.~~

~~(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:~~

~~(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.~~

~~(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.~~

~~(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.~~

~~(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters~~

1 relating to volcanic or earthquake predictions, from holding closed
2 sessions when considering the evaluation of possible predictions.

3 (g) This article does not prevent either of the following:

4 (1) The Teachers' Retirement Board or the Board of
5 Administration of the Public Employees' Retirement System from
6 holding closed sessions when considering matters pertaining to
7 the recruitment, appointment, employment, or removal of the chief
8 executive officer or when considering matters pertaining to the
9 recruitment or removal of the Chief Investment Officer of the State
10 Teachers' Retirement System or the Public Employees' Retirement
11 System.

12 (2) The Commission on Teacher Credentialing from holding
13 closed sessions when considering matters relating to the
14 recruitment, appointment, or removal of its executive director.

15 (h) This article does not prevent the Board of Administration
16 of the Public Employees' Retirement System from holding closed
17 sessions when considering matters relating to the development of
18 rates and competitive strategy for plans offered pursuant to Chapter
19 15 (commencing with Section 21660) of Part 3 of Division 5 of
20 Title 2.

21 (i) This article does not prevent the Managed Risk Medical
22 Insurance Board from holding closed sessions when considering
23 matters related to the development of rates and contracting strategy
24 for entities contracting or seeking to contract with the board
25 pursuant to Part 6.2 (commencing with Section 12693), Part 6.3
26 (commencing with Section 12695), Part 6.4 (commencing with
27 Section 12699.50), or Part 6.5 (commencing with Section 12700)
28 of Division 2 of the Insurance Code.

29 (j) Nothing in this article shall be construed to prevent the board
30 of the State Compensation Insurance Fund from holding closed
31 sessions in the following:

32 (1) When considering matters related to claims pursuant to
33 Chapter 1 (commencing with Section 3200) of Division 4 of the
34 Labor Code, to the extent that confidential medical information
35 or other individually identifiable information would be disclosed.

36 (2) To the extent that matters related to audits and investigations
37 that have not been completed would be disclosed.

38 (3) To the extent that an internal audit containing proprietary
39 information would be disclosed.

~~(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.~~

~~(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.~~

~~SEC. 35.~~

SEC. 33. Section 7054.6 of the Health and Safety Code is amended to read:

7054.6. (a) Except as provided in subdivision (b), cremated remains may be removed in a durable container from the place of cremation or interment and kept in or on the real property owned or occupied by a person described in Section 7100 *or any other person*, with the permission of the person with the right to disposition, or the durable container holding the cremated remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 103060. The placement, in any place, of six or more cremated remains under this section does not constitute the place a cemetery, as defined in Section 7003.

(b) Notwithstanding any other provision of law, cremated remains may be placed in one or more keepsake urns, ~~in an amount not to exceed one cubic centimeter for each keepsake urn.~~ Keepsake urns shall be kept as authorized by the person or persons with the right to control disposition pursuant to Section 7100, provided that a permit for disposition of human remains pursuant to Section 103060 is issued by the local registrar for each keepsake urn designating the home address of each person receiving a keepsake urn and a permit fee pursuant to Section 103065 is paid. No keepsake urn shall be subject to Section 8345. *For purposes of this section, a keepsake urn shall mean a closed durable container*

1 *that will accommodate an amount of cremated remains not to*
2 *exceed one cubic centimeter.*

3 (c) Prior to disposition of cremated remains, every licensee or
4 registrant pursuant to Chapter 12 (commencing with Section 7600)
5 or Chapter 19 (commencing with Section 9600) of Division 3 of
6 the Business and Professions Code, and the agents and employees
7 of the licensee or registrant shall do all of the following:

8 (1) Remove the cremated remains from the place of cremation
9 in a durable container.

10 (2) Keep the cremated remains in a durable container.

11 (3) Store the cremated remains in a place free from exposure to
12 the elements.

13 (4) Responsibly maintain the cremated remains.

14 ~~SEC. 36.~~

15 ~~SEC. 34.~~ Section 8340 of the Health and Safety Code is
16 repealed.

17 ~~SEC. 37.~~

18 ~~SEC. 35.~~ Section 8344 of the Health and Safety Code is
19 amended to read:

20 8344. A crematory shall maintain an identification system
21 allowing identification of each decedent beginning from the time
22 the crematory accepts delivery of human remains until the point
23 at which it releases the cremated remains to a third party. After
24 cremation, an identifying disk, tab, or other permanent label shall
25 be placed within the urn or cremated remains container before the
26 cremated remains are released from the crematory. Each
27 identification disk, tab, or label shall contain the license number
28 of the crematory and shall have a unique number that shall be
29 recorded on all paperwork regarding the decedent's case and in
30 the crematory log. Each crematory shall maintain a written
31 procedure for identification of remains. ~~These~~ *The* identification
32 requirements *pertaining to an identifying disk, tab, or other label*
33 *to be placed within the urn or cremated remains container* shall
34 not apply to cremated remains placed in a keepsake urn pursuant
35 to subdivision (b) of Section 7054.6 if space does not permit.

36 On or after March 1, 1994, any crematory that fails, when
37 requested by an official of the bureau to produce a written
38 procedure for identification of remains, shall have 15 working
39 days from the time of the request to produce an identification
40 procedure for review by the chief of the Cemetery and Funeral

1 Bureau. The license of the crematory shall be suspended pursuant
2 to Chapter 5 (commencing with Section 11500) of Part 1 of
3 Division 3 of Title 2 of the Government Code, if no identification
4 procedure is produced for review after 15 working days have
5 elapsed.

6 ~~SEC. 38. Section 7106 of the Public Contract Code is amended~~
7 ~~to read:~~

8 ~~7106. Every bid on every public works contract of a public~~
9 ~~entity shall include an affidavit, in the following form:~~

10
11 ~~“NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY~~
12 ~~BIDDER AND SUBMITTED WITH BID~~
13

14
15
16 I am the party making the foregoing bid. The bid is not made in
17 the interest of, or on behalf of, any undisclosed person, partnership,
18 company, association, organization, or corporation. The bid is
19 genuine and not collusive or sham. I have not directly or indirectly
20 induced or solicited any other bidder to put in a false or sham bid,
21 and I have not directly or indirectly colluded, conspired, connived,
22 or agreed with any bidder or anyone else to put in a sham bid, or
23 to refrain from bidding. I have not in any manner, directly or
24 indirectly, sought by agreement, communication, or conference
25 with anyone to fix my bid price or the bid price of any other bidder,
26 or to fix any overhead, profit, or cost element of my bid price, or
27 of that of any other bidder. All statements contained in the bid are
28 true. I have not, directly or indirectly, submitted my bid price or
29 any breakdown thereof, or the contents thereof, or divulged
30 information or data relative thereto to any corporation, partnership,
31 company, association, organization, bid depository, or to any
32 member or agent thereof to effectuate a collusive or sham bid, and
33 I have not paid and will not pay any person or entity for that
34 purpose.

35 I declare under penalty of perjury under the laws of the State of
36 California that the foregoing is true and correct and that this
37 declaration is executed on _____ at _____.

38 _____
39 (name)

1 ~~SEC. 39.—No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution for certain~~
3 ~~costs that may be incurred by a local agency or school district~~
4 ~~because, in that regard, a local agency or school district has the~~
5 ~~authority to levy service charges, fees or assessments sufficient to~~
6 ~~pay for the program or level of service mandated by this act within~~
7 ~~the meaning of Section 17556 of the Government Code and this~~
8 ~~act creates a new crime or infraction, eliminates a crime or~~
9 ~~infraction, or changes the penalty for a crime or infraction, within~~
10 ~~the meaning of Section 17556 of the Government Code, or changes~~
11 ~~the definition of a crime within the meaning of Section 6 of Article~~
12 ~~XIII B of the California Constitution.~~

13 ~~However, if the Commission on State Mandates determines that~~
14 ~~this act contains other costs mandated by the state, reimbursement~~
15 ~~to local agencies and school districts for those costs shall be made~~
16 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
17 ~~4 of Title 2 of the Government Code.~~

18 ~~SEC. 36. No reimbursement is required by this act pursuant~~
19 ~~to Section 6 of Article XIII B of the California Constitution because~~
20 ~~a local agency or school district has the authority to levy service~~
21 ~~charges, fees, or assessments sufficient to pay for the program or~~
22 ~~level of service mandated by this act, within the meaning of Section~~
23 ~~17556 of the Government Code.~~